



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 33 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/19/0819

Re: Property at 25/8 Dalmeny Street, Edinburgh, EH6 8PG (“the Property”)

Parties:

Mr Duncan Thomson, Mrs Julia Thomson, C/O D J Alexander Lettings Ltd, 1 Wemyss Place, Edinburgh, EH3 6DH (“the Applicant”)

Miss Malgorzata Kempaska, Mr Tomasz Zakrzewski, 25/8 Dalmeny Street, Edinburgh, EH6 8PG (“the Respondent”)

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be granted without a hearing and made an Order for Possession of the Property.

Background

By application, received by the Tribunal on 13 March 2019, the Applicant sought an Order for Possession under Section 33 of the Housing (Scotland) Act 1988.

The application was accompanied by copies of a Short Assured Tenancy Agreement between the Parties commencing on 13 February 2014, a Form AT5 Notice dated 10 February 2014, a Notice to Quit and Section 33 Notice, both dated 30 January 2019 and both requiring the Respondent to vacate the Property by 13 April 2019 and confirmation of service of both Notices on the Respondent by Sheriff Officer on 30 January 2019.

By letter dated 1 May 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 24 May 2019. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held at George House, 126 George Street, Edinburgh on the morning of 12 June 2019. The Applicant was represented by Mr David Gibb of D J Alexander Lettings Limited. The Respondent was not present or represented. The Applicant's representative asked the Tribunal to grant the Order for Possession without a hearing.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 states that the Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision. The Tribunal was of the view that it had before it all the information and documentation it required and that it would determine the application without a hearing.

Section 33 of the Housing (Scotland) Act 1988 provides that the Tribunal shall make an Order for Possession of a house let on a Short Assured Tenancy if it is satisfied that the Short Assured Tenancy has reached its end, that tacit relocation is not operating, that no further contractual tenancy is for the time being in existence and that the landlord has given the tenant notice that he requires possession of the house.

The Tribunal was satisfied from the documentation before it that the requirements of Section 33 had been met and that it was, therefore, bound to grant an Order for Possession of the Property.

Decision

The Tribunal determined that the application should be granted without a hearing and made an Order for Possession of the Property.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Mr George Clark

Legal Member/Chair

12 June 2019

Date